

901:10-4-01 General permit to operate requirements.

(A) General permit to operate or general permit means a type of permit developed by the director for one more categories of facilities as facility is defined in rule 901:10-1-01 of the Administrative Code.

(1) The director shall develop general permits to operate that relate to the following areas:

(a) The facilities involve the same or substantially similar operations including, but not limited to, the same types of animals;

(b) The facilities manage the same types of manure storage or treatment facilities or operate with substantially similar manure management plans; or

(c) The facilities are regulated by a NPDES permit and have similar discharge characteristics and require the same operating conditions to meet either effluent limitations or water quality standards.

(2) The general permit to operate may be written to cover facilities within a geographic area, including but not limited to the following:

(a) Existing geographic or political boundaries;

(b) Any other appropriate combination of boundaries.

(B) The following are eligible for general permits to operate. Any owner or operator may apply for a general permit to operate if the owner or operator falls under one of the following categories:

) Construction stormwater sources:

(2) Any concentrated animal feeding facility that requires NPDES permit coverage as a concentrated animal feeding operation and is not a major concentrated animal feeding facility; or

(3) Any concentrated animal feeding facility that is not a major concentrated animal feeding facility;

(4) Other facilities or operations that meet the criteria in paragraph (A) of this rule.

(C) If the director decides to issue a general permit to operate the director shall follow the notice procedures in Chapter 901:10-6 of the Administrative Code.

(D) No provision in any general permit to operate issued under this rule shall be interpreted as allowing the owner or operator to violate state water quality standards or other applicable environmental standards.

(E) General permits to operate will be effective for a term not to exceed five years at the end of which time the director may renew them. Public notice requirements as found in Chapter 901:10-6 of the Administrative Code shall be satisfied prior to renewal of general permits. If the director chooses not to renew a general permit to operate, all facilities or operations covered under that general permit to operate, shall be notified to submit applications for individual permits. If the director chooses to deny, modify, revoke or suspend a general permit to operate the director will afford the affected parties the opportunity to request a hearing under Chapter 119. of the Revised Code.

) The director may deny, modify, suspend, or revoke eligibility for or coverage under a general permit to operate in situations that include, but are not limited to the following:

(a) Noncompliance with the general permit to operate; or

(b) Noncompliance with rules of Chapter 903. of the Revised Code.

(2) The director may modify, suspend, or revoke eligibility for or coverage under a NPDES general permit to operate for the criteria set forth in paragraphs (E)(1) of this rule or in the following situations:

(a) The discharging facility is not in compliance with the conditions of the general NPDES permit;

(b) New discharges which are not discharges currently covered by a NPDES general or individual permit. A general NPDES permit to operate will not be issued for new discharges associated with concentrated animal feeding facilities requiring a NPDES permit if the receiving waters are designated as outstanding national resource waters, outstanding high quality waters, superior high quality waters, or state resource waters, or to receiving waters that discharge to a water with one of these designations within two stream miles of the discharge point;

(c) A discharge exists and is a significant contributor of pollutants. The director may consider the following factors:

(i) Location of discharge with respect to waters of the State;

(ii) Size of discharge;

(iii) Quantity and nature of pollutants discharged; or other relevant factors.

(d) Conditions at the permitted NPDES operation change, altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for coverage under a general permit;

(e) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general NPDES permit or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

(f) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of effluent or effluent limitations are promulgated for the facility covered by the general permit;

(g) A determination has been made that the waters are not meeting applicable water quality standards; or and approved water quality management plan, or

(h) Effluent limitation guidelines are promulgated for point sources covered by the general NPDES permit.

(3) The director may require any discharging facility authorized by a NPDES general permit to operate to apply for and obtain an individual NPDES permit to operate. Any interested person may petition the director to take action under this paragraph. Cases where an individual NPDES permit to operate may be required shall be as set forth in the criteria of paragraph (E)(2) of this rule.

(F) Each general NPDES permit to operate for NPDES operations must be approved by the United States environmental protection agency before the permit becomes effective.

(G) Only the director may modify general permits to operate. When a permit is modified, only the conditions subject to modification are reopened. The owner or operator shall be afforded the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code.

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901:10-4-02 General permit to operate coverage.

(A) A general permit to operate as described in rule 901:10-4-01 of the Administrative Code is issued by the director for a category of facilities located at multiple sites.

(B) Each person eligible for a general permit to operate shall follow the requirements in rule 901:10-4-03 of the Administrative Code.

(C) Upon issuance of a general permit to operate and issuance of an individual certificate of coverage, the individual permit to operate shall be terminated. All previous permits issued to a facility that can be covered by a general permit to operate are revoked upon request of the owner or operator, termination of the individual permit and issuance of the certification of coverage.

(D) Any person covered under a general permit to operate may choose to pursue an individual permit for any facility covered by this rule.

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901:10-4-03 Notification of coverage.

(A) An owner or operator requesting to be covered by a general permit to operate shall submit a notice of intent.

(B) Notices of intent shall be filed on forms approved by the director and, where applicable to a NPDES operation, shall be considered and processed as an application for coverage under a NPDES permit.

(C) Notices of intent shall contain:

(1) The general permit to operate category under which the applicant requests to be covered;

(2) Name, address, telephone number, contact person and title of owner or operator;

(3) Location, including the latitude and longitude of the production area (entrance to production area);

(4) Topographic map of the geographic area in which the facility is located showing the specific location of the production area;

(5) Specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing fifty-five pounds or more, swine weighing less than fifty-five pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(6) The type of manure storage or treatment facility (anaerobic lagoon, fabricated structure, manure storage ponds, underfloor pits, above ground storage tanks, below ground tanks, concrete pad, pervious soil pad, other) and total capacity for manure (tons/gallons);

(7) The total number of acres under control of the applicant available for land application of manure;

(8) Estimated amounts of manure generated per year (tons/gallons);

(9) Estimated amounts of manure transferred to other persons per year (tons/gallons);

(10) Identification of the permit to install number, if any;

(11) A manure management plan that complies with the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18 of the Administrative Code, and any applicable provisions in rules 901:10-3-02 to 901:10-3-11 ;

(12) The name of the receiving water(s);

(13) Any other information deemed necessary by the director found in the general permit to operate form; and,

(14) Any other information deemed necessary to complete the notice of intent or clarify, modify, or supplement previously submitted material.

(D) Each person eligible for a general permit may provide notice that the person wishes to receive an individual permit instead.

(E) The director shall review the notice of intent to ensure that the notice of intent includes all information required by this rule. If the director makes a preliminary determination that the notice of intent meets the

requirements of this rule, the director shall notify the public of the director's proposal to grant a certificate of coverage to the applicant and make available for public review and comment the notice of intent submitted by the applicant, including the applicant's manure management plan and the draft terms of the manure management plan to be incorporated into the permit. A comment period of 30 days shall be provided for public review and comment, with notice of the comment period being provided to the applicant and published on the Ohio Department of Agriculture Livestock Environmental Permitting Program web site. During the comment period any interested person may submit written comments on the notice and may request a public meeting. The grounds for a public meeting shall be the same as those provided in rules 901:10-6-01(D) and 901:10-6-04(D) of the Administrative Code. Any public meeting shall be conducted as described in rule 901:10-6-04 of the Administrative Code, except that notice regarding the scheduling of the public meeting shall be provided on the Ohio Department of Agriculture Livestock Environmental Permitting Program's web site, rather than through publication in the legal notice section of a newspaper. The provisions of rule 901:10-6-04(J) of the Administrative Code shall also apply to the public comment period. The director shall, if necessary, require the applicant to revise the manure management plan in order to be granted permit coverage.

(F) The director shall notify each affected owner or operator in writing that his or her facility or operation is authorized pursuant to the general permit by issuing a certificate of coverage. When the director authorizes coverage for the owner or operator under the general permit, the terms of the manure management plan become incorporated as terms and conditions of the permit for the owner and operator. The director shall maintain a list of each facility or operation authorized under each general permit. The director shall notify the applicant and inform the public that coverage has been authorized and of the terms of the manure management plan incorporated as terms and conditions of the permit applicable to the facility or operation.

(J) Persons that receive a certificate of coverage for a category from the director will be deemed covered under that general permit to operate. Owners or operators covered under general permits to operate shall be subject to the same limits, management practices, enforcement authorities and rights and privileges specified in the general permit to operate.

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901:10-4-04 Criteria for issuing and renewing NPDES general permit to operate.

A) Criteria for issuing and renewing a general NPDES permit to operate.

(1) If, on the basis of all information available, the director determines that:

(a) Discharges, if any, authorized by a general NPDES permit to operate will have only minimal adverse effects on the environment;

(b) The activities authorized by an individual NPDES permit are more appropriately authorized by a NPDES general permit to operate than an individual permit; and

(c) Adequate monitoring to obtain required information is provided; then

(d) The director shall issue a NPDES general permit to operate.

(2) The director shall not issue a NPDES general permit to operate or renewal thereof if the United States environmental protection agency regional administrator objects in writing to the issuance or renewal of a NPDES general permit to operate in accordance with section 402 of the Act.

(B) Permit duration. A general NPDES permit to operate shall be effective for a fixed term not to exceed five years.

(C) Fact sheets. The director shall prepare for each general NPDES permit to operate a fact sheet that sets forth the principal facts and significant factual, legal, methodological and policy questions considered in preparing the general permit.

(D) The general NPDES permit to operate shall comply with paragraphs (D)(1)(a) through (D)(1)(g) of rule 901:10-3-01 of the Administrative Code.

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901:10-4-05 General operating permit.

A general permit to operate shall be effective from the date of issuance for a fixed term not to exceed five years. Holders of certificates of coverage under this permit shall comply with the following specified conditions and limitations.

(A) Applicability. "Concentrated animal feeding operation" or "CAFO" has the same meaning as division (F) of section 903.01 of the Revised Code and refers to those operations that are subject to the federally enforceable provisions of a permit into which NPDES requirements have been incorporated. "Concentrated animal feeding facilities" or "facilities" have the same meaning as division (E) of section 903.01 of the Revised Code and refer to those facilities that are subject to permits to operate. With respect to NPDES operations, the following requirements also apply to and are enforceable pursuant to the Act and to the extent authorized by federal law:

- (1) The information required for NPDES permits in rule 901:10-1-02 of the Administrative Code;
- (2) The information required in rule 901:10-3-01 of the Administrative Code except where general NPDES permits are specifically excluded;
- (3) A manure management plan that complies with the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18 of the Administrative Code;
- (4) Inspections required in rule 901:10-2-08 of the Administrative Code;
- (5) An operating record developed in accordance with rule 901:10-2-16 of the Administrative Code with the use of forms prescribed by the director and other forms selected by the owner or operator for the facility and approved by the director. The operating record shall be maintained at the site office at all times. Upon approval of the NPDES permit, the operating record shall be deemed part of the NPDES permit;
- (6) An emergency response plan containing the information required in rule 901:10-2-17 of the Administrative Code; and
- (7) An annual report required in rule 901:10-2-20 of the Administrative Code.

(B) Performance standards.

- (1) Compliance is required with rules 901:10-2-08 to 901:10-2-19 of the Administrative Code.
- (2) The facility permitted under a general permit shall be effectively maintained and operated to prevent the discharge of pollutants to waters of the state. Facilities which are in compliance with their manure management plan (MMP) and a general permit which unintentionally discharge as a result of the twenty-five year, twenty-four hour storm event or greater will not be considered to be in violation of this permit.
- (3) For new and existing facilities, the operating level of manure treatment lagoons and manure storage ponds in rule 901:10-2-06 of the Administrative Code must have at a minimum containment capacity at the prospective operating level that can also contain adequate storage for a twenty-five year, twenty-four hour storm event, one foot of freeboard and any additional storage required in the MMP.
- (4) For new and expanding facilities, the operating level of fabricated structures in rule 901:10-2-05 of the Administrative Code must have at a minimum storage volume at the prospective operating level that can also contain adequate storage for a twenty-five year, twenty-four hour storm event and six inches of

freeboard and any additional storage required in the MMP.

(5) The manure management plan, the operating record and insect and rodent control plan are incorporated by reference into a general permit to operate. The permittee shall maintain compliance with the approved MMP, the operating record rules and insect and rodent control plan as required under state law.

(6) A facility may be expanded by not more than ten per cent in excess of the design capacity set forth in the current design capacity, provided that in no case during a five year period shall the facility's capacity be increased by more than ten per cent in the aggregate and further, that in no case shall the capacity be increased so as to exceed the number of animal units authorized in the category of the general permit.

(7) New or expanding facilities are required to be inspected by the director or an authorized representative in a timely manner prior to stocking the animals.

(8) A copy of the certificate of coverage ("COC"), general permit, distribution and utilization records, the insect and rodent control plan, the operating record and the MMP shall be maintained at the site office where manure management activities are being conducted for the life of the general permit. These documents shall be kept in good condition and shall be maintained in an orderly fashion.

(C) Operation and maintenance requirements.

(1) The manure storage or treatment facilities and equipment shall be properly maintained at all times.

(2) The manure land application sites and setbacks as required in appendix A of rule 901:10-2-14 of the Administrative Code shall be properly maintained at all times.

(3) The phosphorus and nitrogen application rates shall be maintained as set forth in paragraphs (B) to (E) rule 901:10-2-14 of the Administrative Code. Available water capacity identified in the MMP shall be maintained in accordance with appendix B of rule 901:10-2-14 of the Administrative Code.

(4) Unless designed and permitted to do so, domestic and/or industrial wastewater from showers, toilets, sinks, etc. shall not be discharged into the manure storage or treatment facility.

(5) Disposal of dead animals shall be done in accordance with specified best management practices and rule 901:10-2-15 of the Administrative Code.

(6) All stormwater conveyances shall be inspected and maintained to keep runoff from the surrounding property and buildings and shall be diverted away from the manure treatment lagoons and/or manure storage ponds to prevent any unnecessary addition to the liquid volume in these structures unless the lagoons and/or ponds are designed for such runoff containment.

(7) A protective vegetative cover shall be maintained on all disturbed areas (manure treatment lagoon or manure storage pond embankments, berms, pipe runs, erosion control areas, etc.). Emerging vegetation such as trees, shrubs and other woody species shall not be allowed to grow on the dikes or side slopes of manure treatment lagoons or manure storage ponds. Manure treatment lagoon and manure storage pond areas are to be kept mowed and accessible unless these areas are grassed waterways or buffers that manage precipitation runoff and stormwater.

(8) Management of the manure residuals shall be in accordance with the MMP.

(9) When removal of manure residuals from the manure storage or treatment facilities is necessary,

provisions must be taken to prevent damage.

(10) Solid materials including, but not limited to, bottles, light bulbs, gloves, syringes or any other solid waste from the facility shall be prevented from entering the manure storage or treatment facility.

(11) The owner or operator must have at all times: adequate manure application and handling equipment on site; an agreement to acquire or have use of the necessary equipment; a third party applicator capable of providing adequate manure application equipment; or a distribution and utilization plan.

The equipment must be capable of land applying the manure on the sites specified in the MMP, including compliance with the agronomic rate, available water capacity for the land application sites and incorporation of manure, where required. Records shall be maintained in the operating record as required in rule 901:10-2-16 of the Administrative Code

(D) Monitoring and reporting requirements.

(1) Manure treatment and storage facilities under the control of the owner or operator shall be inspected for evidence of erosion, leakage, damage or discharge. A written chronological record of maintenance and repairs shall be maintained in the operating record and be made readily available during a scheduled inspection of the facility. These records shall also be made available at the request of the director. All repairs shall be completed promptly. The department shall inspect any major structural repairs.

(2) If not already installed at a facility, a liquid level board or staff gauge or other appropriate device, as approved by the director, shall be installed within sixty days of issuance of the COC under a general permit to monitor manure levels. This board or gauge or other appropriate device, as approved by the director, shall have readily visible permanent markings indicating the summation of the residual manure volume and minimum storage or treatment design volume and shall be designated as the "stop pumping" elevation. The liquid level board, staff gauge or other appropriate device, as approved by the director, shall also indicate the elevation corresponding to the summation of the maximum storage volume, residual solids minimum storage, volume, runoff and wash down volumes and manure volume and shall be designated as "start pumping" elevation. Where manure storage ponds are utilized, only a gauge with visible permanent markings indicating when the pump-out begins and freeboard elevations need be installed. Caution must be taken not to damage the integrity of the liner when installing the gauge. Levels shall be recorded in the operating record that must be maintained at the facility, in compliance with the MMP.

(3) Soil testing shall be conducted as described in the MMP on each land application site receiving manure. The results of these tests shall be maintained in the operating record by the owner or operator for a minimum of five years and shall be made available to the director.

(4) An analysis of the manure from the manure storage or treatment facility shall be conducted initially after issuance of the COC and thereafter as described in the MMP. This analysis shall include the parameters listed in the MMP.

(5) Proper records, including maintenance, repairs and the operating record, shall be maintained on site and in chronological and legible form for a minimum of five years. These records shall be readily available for inspection in the operating record.

() Emergency response plan.

An emergency response plan must be developed that shall include the following:

(1) The names and telephone numbers of persons who are identified by the owner or operator as

responsible for implementing the plan;

(2) Areas of the facility where potential spills can occur and their accompanying surface and subsurface drainage points;

(3) Procedures to be followed in the event of a spill, including an actual or imminent discharge to waters of the state:

(a) Actions to contain or manage the spill or discharge;

(b) Identification of proper authorities to be contacted;

(c) Actions to mitigate any adverse effects of a spill or discharge; and

(d) Identification of equipment and cleanup materials to be used in the event of a spill or discharge.

(4) Procedures for reporting. The owner or operator shall report by telephone to the department as soon as possible, but in no case more than twenty-four hours following first knowledge of the occurrence of the following:

(a) The time at which the discharge or spillage occurred, if known, and or was discovered;

(b) The approximate amount and characteristics of the discharge or spillage;

(c) The receiving waters affected by the discharge or spillage;

(d) The circumstances that created the discharge or spillage;

(e) The names and telephone numbers of the persons who have knowledge of these circumstances;

(f) Those steps being taken to clean up the discharge or spillage; and

(g) The names and telephone numbers of the persons responsible for the cleanup.

(5) For any emergency that requires immediate reporting after normal business hours, the owner or operator shall contact the Ohio department of agriculture's emergency telephone number.

(6) If applicable, the owner or operator shall notify the appropriate local authorities.

(7) The owner or operator shall also file a written report of the occurrence in letter form within five days following first knowledge of the occurrence unless waived by the director permitting an extension of time. This report shall outline the actions taken or proposed to be taken to correct the problem and to ensure that the problem does not recur.

(F) Inspections.

Any duly authorized officer, employee or representative of the department may inspect the permitted site at any reasonable time upon presentation of credentials and in accordance with reasonable and appropriate biosecurity measures, for the purpose of determining compliance with this permit; may inspect or obtain a copy of any records that must be kept under the terms and conditions of this permit; and may obtain samples of the manure, soil, groundwater or surface water.

(G) General conditions.

(1) In addition to the general conditions set forth in this paragraph, the owner or operator of an NPDES

operation shall comply with the standard terms and conditions set forth in rule 901:10-3-10 of the Administrative Code.

(2) Upon reasonable cause to believe that any activities pursuant to this permit may cause or contribute any manure, directly or indirectly, to be intermixed with the waters of the state, the department may require any monitoring (including but not limited to groundwater, surface water and soil) necessary to determine the source, quantity, quality and effect of such waste upon the waters of the state. Such monitoring, including its scope, frequency, duration and any sampling, testing and reporting systems, shall meet all applicable requirements, including records maintained in the operating record. The director has the ability to determine that an individual NPDES or general NPDES permit may be required.

(3) Failure to abide by the conditions and limitations contained in this permit and any COC issued under a general permit may subject the owner or operator to an enforcement action in accordance with Ohio law and may include the requirement to obtain an individual permit, the addition of manure storage or treatment facilities or the addition of land application sites.

(4) The issuance of a COC under a permit does not excuse the owner or operator from the obligation to comply with all applicable statutes, rules, regulations, or ordinances (local, state and federal).

(5) If animal production is to be suspended or terminated, the owner or operator is responsible for developing, implementing and completing a closure plan in accordance with rule 901:10-2-18 of the Administrative Code which will eliminate the possibility of an illegal discharge, pollution and the potential for environmental degradation to waters of the state and shall be in accordance with applicable closure standards in effect when the closure plan is developed and implemented.

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